

Substantially Equal Presentation Death and Disability Plan San Diego Police Officers Association

Brian R. Marvel, President

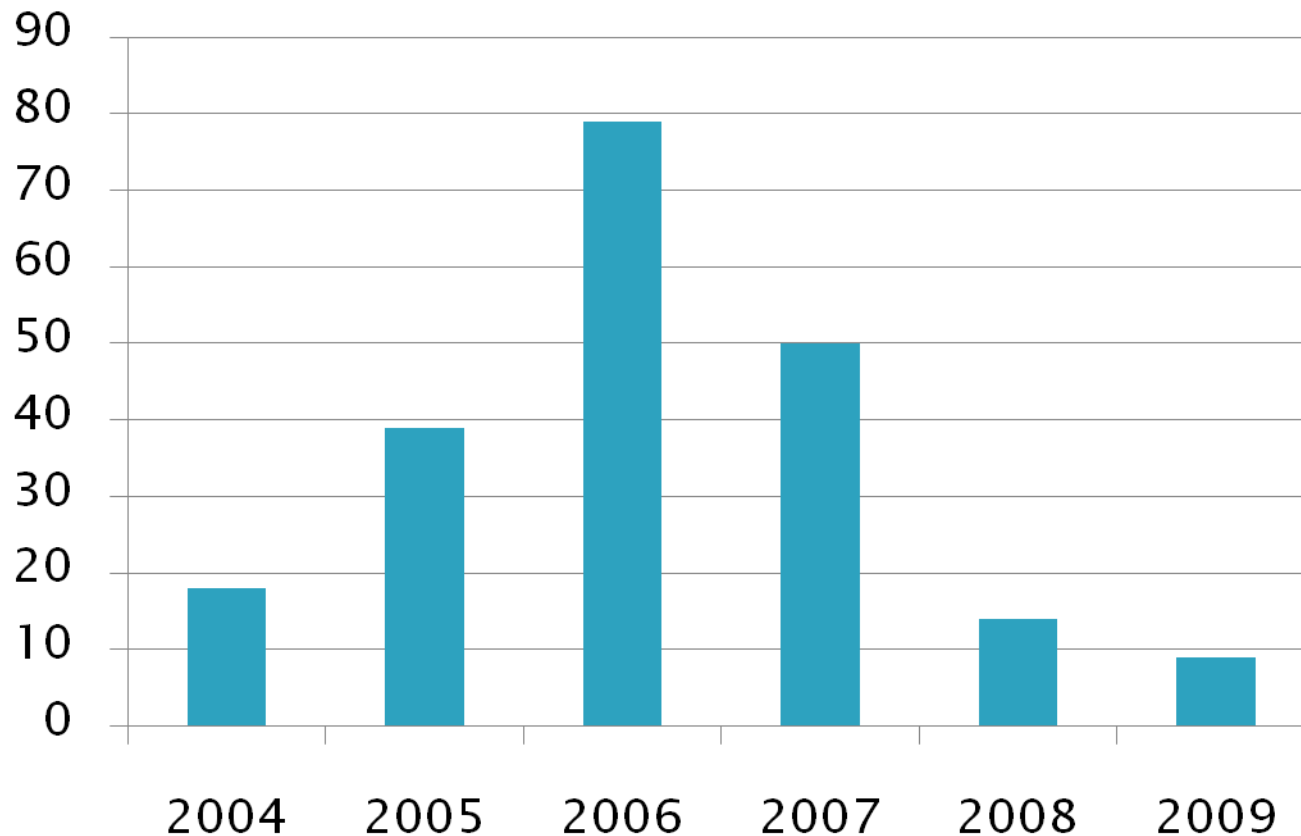
Jeff Jordon, Vice President

Mike Conger, Attorney

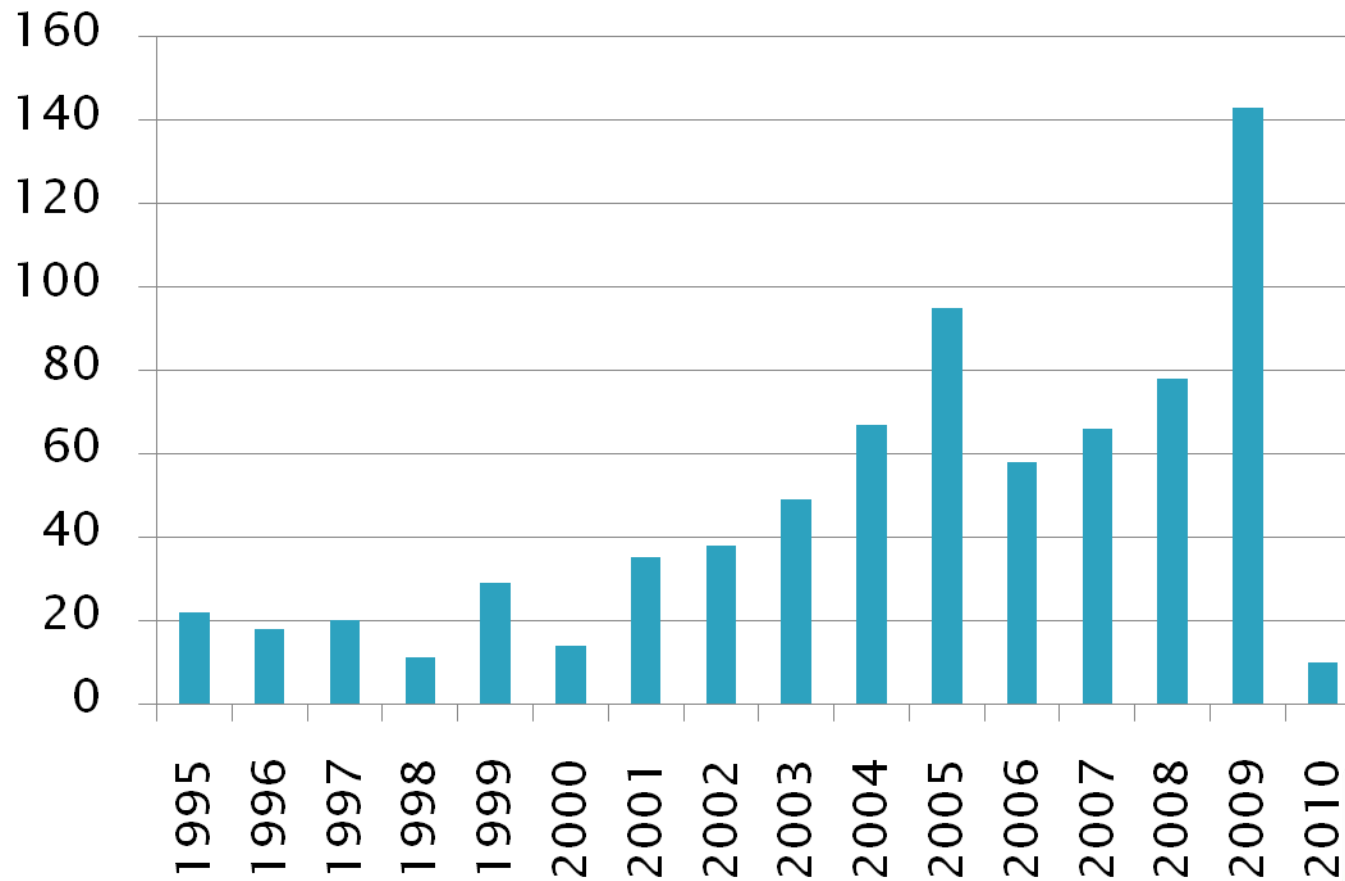
Rick Roeder, MPAA



Number of Officers Departing SDPD for Other Agencies

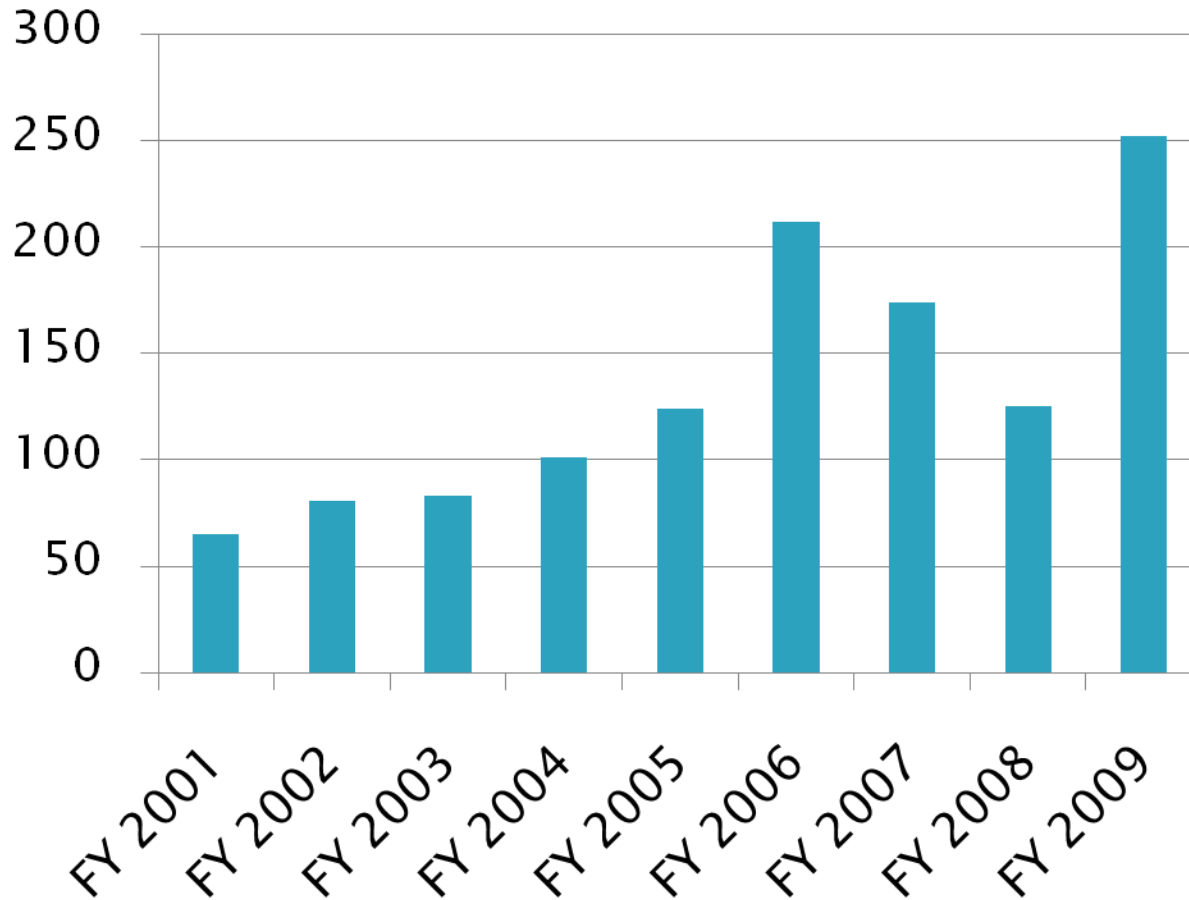


Retirements by Year

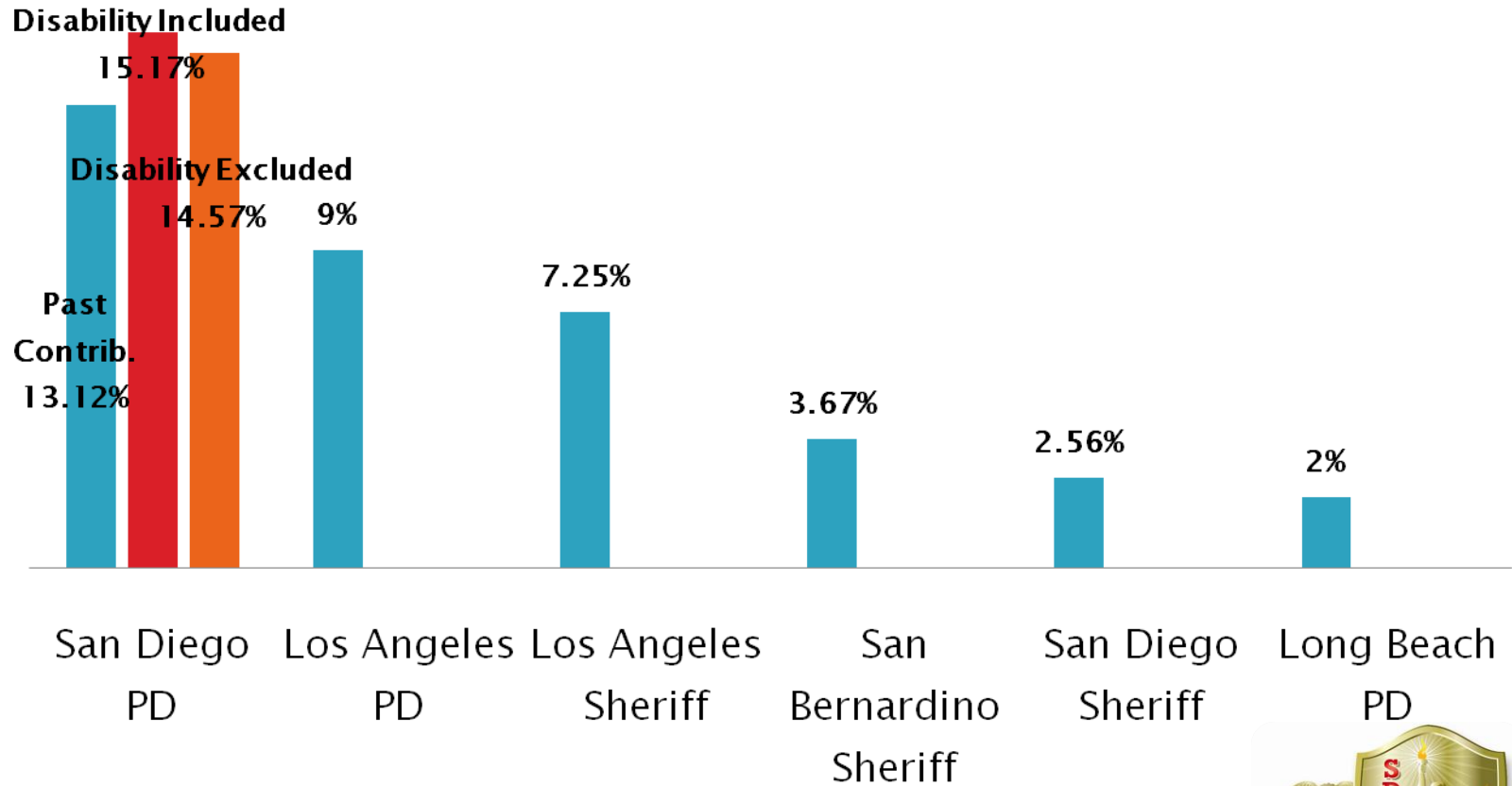


SDPD Attrition for All Reasons

(retirement, medical, other agencies, resignation, etc.)



Pension Contribution



City Charter Section 143

- ▶ “The City shall contribute annually an amount substantially equal to that required of the employees for *normal retirement allowances*...”
- ▶ Thus, the key question is: What is meant by the phrase “normal retirement allowances”



What is a “Normal Retirement Allowance”

- ▶ The Charter does not define the phrase “normal retirement allowances”
- ▶ But the San Diego Municipal Code provides the clear answer
- ▶ Before we begin, please recall some important legal principles



Important Principles

- ▶ SDCERS must follow the “Plan Document” (Navigant legal analysis pp. 53–54)
- ▶ Failure to follow Plan Document “subject the Pension Fund to possible disqualification by the IRS” (p. 97)
- ▶ VCP---promised to comply with terms of Plan Document in Future; no discretion
- ▶ Plan Document includes San Diego Municipal Code



SDCERS' General Counsel

March 23, 2010

- ▶ “When interpreting the Charter [or the San Diego Municipal Code], the Board must apply rules of statutory construction.” (p. 3)
- ▶ “Where the plan sponsor provides language in a[n ordinance] that is clear and unambiguous, the [ordinance] must be applied according to its terms.” (p. 3)
- ▶ Repeated on page 6 of SDCERS' General Counsel's May 11, 2010 Staff Report



What Does the Plan Document Say?

- ▶ Charter does not define phrase “normal retirement allowance”
- ▶ But San Diego Municipal Code uses that phrase TWICE
- ▶ Both times the phrase “normal retirement allowance” is used to mean the service retirement only and NOT disability retirement or death benefit
- ▶ Recall that Charter section 146 provides retirement “ordinances . . . shall have equal force and effect with [the Charter] and shall be construed to be part [of the Charter]”



San Diego Municipal Code

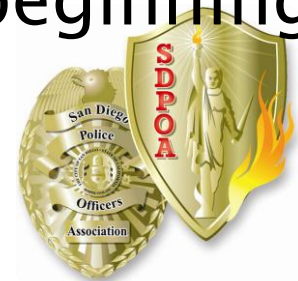
Article 4, Division 4

- ▶ SDMC § 24.0401: “[The] Board of Administration is hereby vested with the power and authority to provide a *normal retirement allowance* for members *as provided in Section 24.0402*.
- ▶ SDMC § 24.0401 continues: “The Board is also authorized to provide a *normal retirement allowance* for safety members *as provided in Section 24.0403*.



And What Do Those Sections Say

- ▶ SDMC § 24.0402 provides for the SERVICE retirements for general members
- ▶ SDMC § 24.0403 provides for the SERVICE retirements for safety members
- ▶ Disability Retirements are provided for in an *entirely separate Division (5) of the SDMC*, beginning with Section 24.0501
- ▶ Death Benefit is provided for in an *entirely separate Division (7) of the SDMC*, beginning with Section 24.0701



Disability Retirements

- ▶ SDMC § 24.0503: Industrial Disability for Safety Members: “The disability retirement allowance for a Safety Member retired because of industrial disability *shall be* derived from an Annuity based on that member’s Accumulated Normal Contributions and a disability retirement pension *derived from contributions of the City.*”
- ▶ “Accumulated Normal Contributions” do not include disability contributions (SDMC § § 24.0103, 24.0201, 24.0301)



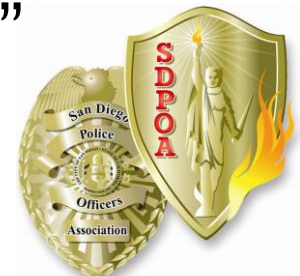
Disability Retirements

- ▶ SDMC § 24.0504(b): Non-Industrial Disability for Safety Members “*derived from the contributions of the City*”
- ▶ SDMC § 24.0505(b): Industrial Disability for General Members “*derived from contributions of the City*”
- ▶ SDMC § 24.0506(b): Non-Industrial Disability for General Members “*derived from the contributions of the City*”



Death Benefit Also Paid for By City

- ▶ Death benefit is provided for in Division 7, beginning at SDMC § 24.0701
- ▶ Not included in sections (24.0402 or 24.0403) referred to in defining “normal retirement allowance”
- ▶ SDMC § 24.0702(b), which provides for the “Active [employee] Death Benefit” states over the Member’s Accumulated Contributions comes “from the City’s contribution”



Similarities Between Death and Disability Benefits

Death Benefit

- ▶ Can get it with 1 day worked
- ▶ No vesting requirement
- ▶ No age requirement
- ▶ Lifetime annuity (for survivor)
- ▶ Pays at any age
- ▶ Benefit not based on years of service

Disability Benefit

- ▶ Can get it with 1 day worked
- ▶ No vesting requirement
- ▶ No age requirement
- ▶ Lifetime annuity
- ▶ Pays at any age
- ▶ Benefit not based on years of service



By Contrast, Service Retirement Requires

- ▶ That a vesting threshold be met
- ▶ Only pays when age requirements met
- ▶ Service retirement is based on years of service
- ▶ And, once earn a service retirement, guaranteed “normal service retirement” for life
- ▶ Disability retirement can be withdrawn if condition improves or member obtains job inconsistent with IDR---not guaranteed for life
- ▶ Service retirement and disability retirement have vastly *different* characteristics



Municipal Code Supports Both Options

- ▶ When questioned if SDCERS is following the plan document, it is stated that SDCERS is "following the plan document under Option A or Option B" and "there is support under the municipal code for both options."
- ▶ SDCERS Board Meeting – May 28, 2010 (minute 1:18:45)

